IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1032 of 2006

SHEETAL PRASAD
V/S
MAHENDRA SINGH @ GHEESU SINGH & ORS

Mr. MANISH PITALIYA, for the appellant / petitioner

Mr. ANUJ SAHLOT, Mr. LD KAHTRI, for the respondent

Date of Order : 2.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant and perused the impugned order.

The only challenge made by learned counsel is to the award of penalty imposed under Section 4A(3)(b) of the Workmen's Compensation Act. Of course, it is true that before imposition of penalty, the learned Commissioner should be of the opinion that there is no justification for delay in making payment of the compensation. In the present case, the accident occurred on 25.4.2000, and the Commissioner at page 11 has found that till the date, amount of compensation has not been paid by the owner, or insurer, and therefore, penalty has been imposed.

It was contended by learned counsel that before passing the order, no opportunity of hearing was given to the appellant. In view of this contention, learned counsel was repeatedly, and pointedly asked to explain even now, or

even in the memo of appeal, as to what was the justification for not making payment for all this period of time after it became due, but no satisfactory answer was given. It was attempted to be given out that the liability was of the insurer, but then learned counsel was asked, as to when did the appellant inform the insurance company about the accident but then no reply was given. In that view of the matter, even a post-decisional hearing was given to the appellant, which has not resulted into making any justification for not making payment. Thus, in my view, the appeal does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

/tarun/